

ORIGINAL

Before the
Federal Communications Commission
Washington, D.C. 20554

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DEC 19 2003

Federal Communications Commission
Bureau / Office

In the Matter of

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Amendment of Section 73.606(b),

)

MM Docket No. 03-224

Table of Allotments, TV Broadcast Stations,

)

RM-10802

and 73.622(b), Table of Allotments,

)

Digital Broadcast Television Stations

)

(Columbia and Edenton, NC)

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DEC 19 2003

Federal Communications Commission
Office of the Secretary

To Chief, Allocations Branch
Policy & Rules Division
Media Bureau

OPPOSITION TO PETITION FOR RULEMAKING

Hampton Roads Educational Telecommunications Association, Inc. ("Hampton Roads"), by its attorneys, respectfully opposes the "Petition for Rulemaking" filed July 30, 2003 ("Petition") by the University of North Carolina ("UNC"), which seeks to amend the Table of Allotments, 47 C.F.R. § 73.606(b), to move Channel *2, Columbia, North Carolina, which is used by UNC's noncommercial educational station WUND-TV, to Edenton, North Carolina.¹

As shown below, UNC's proposal is squarely inconsistent with the FCC's rules and policies. It is a blatant grab for viewers and funding in Hampton Road's market at the expense of local transmission service in WUND-TV's city of license. The Petition should therefore be dismissed.²

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¹ *In re: Amendment of Section 73.606(b), Table of Allotments, Television Broadcast Stations (Columbia and Edenton, NC)*, Petition for Rulemaking, MB Docket No. 03-224, RM-10802 (Filed July 31, 2003) ("UNC Petition")

² The petition has not yet been placed on public notice pursuant to Section 1.403 of the Rules. Therefore, this opposition is timely.

I. BACKGROUND

The original allotment of Channel *2 to Columbia, North Carolina was made in April 1964 at the specific request of the University of North Carolina. UNC applied for and was awarded the channel, and it has remained the sole licensee of Station WUND-TV.³ UNC petitioned for the channel to be allotted to Columbia because that community would serve as “an important link in [the then-proposed] state-wide educational television network.”⁴ The Commission noted when it granted UNC’s request that the placement of the channel in Columbia would “meet a real need as a source of educational programming for both schools and the general public” in that community.⁵ Similarly, the Commission noted with approval that granting the requested allotment to Columbia would make possible the community’s first and only local television station.⁶ After nearly four decades of service to its original community of license, WUND-TV Channel *2 remains the sole television station in Columbia, North Carolina.

On July 31, 2003, UNC filed the Petition to specify a new community of license for WUND-TV. UNC requests that the Commission amend the NTSC Table of Allotments, 47 C.F.R. § 73.606(b) by changing WUND-TV’s allotment from Columbia, North Carolina to Edenton, North Carolina, and to modify the WUND-TV license accordingly.

Hampton Roads opposes the allotment change. Hampton Roads is licensee of noncommercial educational station WHRO-TV, Hampton-Norfolk, Virginia. Station WHRO-TV serves the Tidewater area of southeastern Virginia and northeastern North Carolina, and its

³ See Federal Communications Commission, *Table of Assignments, Television Broadcast Stations (Columbia, North Carolina)*, 29 Fed. Reg. 4721 (Apr. 2, 1964). For the convenience of the Commission, a copy of the FCC’s original allocation decision is attached.

⁴ *Id.*

⁵ *Id.*

local ties to these areas are extensive. Hampton Roads was formed and is controlled by 14 public school system members in the Tidewater/Hampton Roads area (which includes communities on the peninsula as far west as Williamsburg and north through the Virginia Northern Neck and the Eastern Shore). Hampton Roads is fully integrated into this region. The school system members elect the board of directors of Hampton Roads, and provide input regarding its educational mission. Members of the board include not only educators, but others drawn from the community, including principals from local financial institutions, law firms, transportation firms, the print media and the military. Hampton Roads is dependent on local support – over 80% of its funding is locally raised. Unlike UNC, which is a large public educational institution governed by a state-wide board responsible for far-flung operations, Hampton Roads operates as an independent licensee whose support from the community is crucial to its survival and ability to serve the public interest. Therefore, UNC's proposed move into Hampton Road's market, with the intention to siphon off viewers and funding, threatens to undermine Hampton Road's support at this critical juncture in the history of public television.

II. ARGUMENT

A. Removal of Channel *2 from Columbia Would Deprive the Community of Its Sole Television Station

The Commission has continually upheld the principle that a community which possesses only one television station must not be stripped of its allotment absent compelling evidence that the Commission's larger allotment goals will be frustrated by keeping the station in the community.⁷ The Commission has occasionally found sufficient cause to change a station's

⁶ *Id.*

⁷ See *Amendment of the Commission's Rules regarding Modification of FM and TV Authorizations to Specify a New Community of License*, Memorandum Report and Order, 5 FCC RCD 7094 (Released Nov. 30, 1990) ("1990 MO&O").

community of license when the licensee is the sole station in the community, but these occasions have been extraordinarily few in number and only in circumstances where the status quo was clearly frustrating the Commission's overall public policy goals⁸

UNC's petition is squarely inconsistent with this fundamental principle. UNC attempts to divert attention away from this problem by arguing that the removal of Columbia's sole *transmission* service can be excused because the community will still retain the WUND-TV *reception* service. UNC notes that it would not alter the location of the station's studios or transmitter, currently located on the border of Washington and Tyrell counties. However, this argument flies in the face of the Commission's long-standing policy, and is directly contradicted by the cases UNC cites. For example, in the *Bessemer* case,⁹ cited numerous times by UNC, the Commission dealt with nearly the same situation as presented by UNC's petition. There, the Commission denied the request of a licensee seeking a change to its community of license while leaving its transmission tower and studio in the same place. The Commission stated in unambiguous terms that the community at issue in *Bessemer* possessed "a legitimate expectation of continued local *transmission* service."¹⁰ This result follows the policy established by the Commission in its 1989 *Report and Order*¹¹ modifying the rules for petitions to change the communities of license for television and radio broadcast services. The 1989 R&O, also cited by UNC in its petition, leaves no room for doubt that the Commission "will not allow any

⁸ See, e.g., *In re Amendment of Section 73.606(b), Table of Allotments, TV Broadcast Stations (North Pole and Plattsburgh, New York)*, Notice of Proposed Rulemaking, DA 99-1235 (Released July 2, 1999) (basis for petition to change the community of license based upon the fact that the original community of license had so shrunk in size that, according to the U.S. Census and local sources, it lacked the requisite indicia of community required for an allotment of a television station).

⁹ *In re Amendment of Section 73.606(b), Table of Allotments, TV Broadcast Stations (Bessemer and Tuscaloosa, Alabama)*, Report and Order, 5 FCC Rcd 669 (Released Feb. 5, 1990) ("Bessemer").

¹⁰ *Id.* at ¶ 14 (emphasis added).

¹¹ *In re Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License*, Report and Order, 4 FCC Rcd 4870 (Released June 15, 1989) ("1989 R&O").

broadcaster to take advantage of [the revised change of community of license rules] if the effect would be to deprive a community of an existing service representing its *only local transmission service*.”¹² Furthermore, UNC’s reliance on the 1990 MO&O for the proposition that removal of a sole service is at least *possible* fails to acknowledge that such removals will be granted “only if there are sufficient public interest facts to offset the expectation of continued service.”¹³ UNC’s contention that the Commission’s treatment of reception service and transmission service is a “distinction without a difference”¹⁴ is, ironically enough, accurate—but only in the sense that the Commission has *never* tolerated an attempt to remove without adequate justification *either* type of service from a community lacking at least one alternative service.¹⁵

B. Columbia and Edenton Are Separate Communities, Not Part of Any Wide-Sweeping Regional “Community”

UNC also argues that granting a change in WUND-TV’s community of license does not actually require a change in the “community,” on the theory that the entire 4,500 square mile area encompassing the land around North Carolina’s Albemarle Sound and portions of southeastern Virginia is a “community” for Section 307(b) purposes. Although UNC rightly points out that, in the television context, the Commission’s definition of “community” has not been limited to political boundaries,¹⁶ it is not true that a “community” exists merely by virtue of a station’s signal coverage or even geographical proximity. The analysis of whether any particular group of people in a given area qualifies as a “community” is a fact-intensive inquiry. The Commission

¹² *Id.* at ¶ 28 (emphasis added)

¹³ 1990 MO&O, *supra* note 6, at ¶ 19

¹⁴ See UNC Petition, *supra* note 1, at 8

¹⁵ As shall be discussed in further detail in the remainder of this petition, UNC’s proposal falls far short of the Commission’s threshold test of acceptability delineated in the 1989 R&O. UNC’s proposal will *not* “result in a preferred distribution of facilities under [FCC] allotment priorities and policies.” 1989 R&O, *supra* note 9, at ¶ 28, but seeks instead to undermine those priorities and policies solely for the purpose of attracting more viewers and fundraising dollars.

¹⁶ See, e.g., *Winter Park Communications, Inc. v. FCC*, 873 F.2d 347 (D.C. Cir. 1989)

has regularly "rejected claims of community status where a connection has not been shown between the political, social, and commercial organizations and the community in question."¹⁷

This "connection" is demonstrated by numerous methods of verification, including Census data, descriptions of local businesses and civic groups, and any other "evidence that the residents function as and conceive of themselves as a community around which their interests coalesce."¹⁸

Apart from the assertion that communities located in the region around Albemarle Sound occasionally shop and conduct business with each other, UNC offers absolutely no evidence that the area possesses the necessary indicia of a single community status required for Section 307(b) analysis. The Commission has explicitly stated that the fact that people living in a certain geographic area tend to frequent local businesses is not sufficient to serve as indicia of community. Specifically, the Commission stated that while "proximity results in a degree of commercial intercourse and civic and political cooperation, such interaction is to be expected where the distances are relatively small. It does not follow, however, that they are not communities separate and independent of each other for 307(b) purposes."¹⁹

UNC's bare assertion of "community" falls far short of the required demonstration.²⁰ In fact, there is ample evidence to the contrary. Edenton and Columbia are both the seats of their respective counties, and each possesses more than adequate indicia of community status for the purposes of Section 307(b). Although UNC claims that the Albemarle Sound is a unifying feature of the counties that surround it, quite the opposite is true. The Sound provides an

¹⁷ *In re Amendment of Section 73.606(b), Table of Allotments, TV Broadcast Stations (Columbia, California)*, Report and Order, 6 FCC Rcd 3292, ¶ 3 (Released June 3, 1991).

¹⁸ *In re Mighty-Mac Broadcasting Company*, 101 FCC 2d 303, ¶ 5 (Released June 26, 1985).

¹⁹ *In re Radio Greenbrier, Inc., Ronceverte, West Virginia*, 80 FCC 2d 107, ¶ 11 (Released Feb. 13, 1980).

²⁰ See generally *Reeder v. FCC*, 865 F.2d 1298 (D.C. Cir. 1989), *In re Amendment of Section 73.606(b), Table of Allotments, TV Broadcast Stations (Columbia, California)*, Report and Order, 6 FCC Rcd 3292 (Released June 3, 1991); *In re Amendment of Section 73.202(b) Table of Assignments, FM Broadcast Stations (Naples, North Naples, and Immokalee, Florida)*, 41 Rad. Reg. 2d 1549 (Released Dec. 15, 1977).

effective barrier not as easily traversed as UNC suggests. Edenton and Columbia are separated by their counties, by the body of water stretching between them—even by separate Representatives to the United States Congress.²¹ In short, there is little to indicate that the enormous Albemarle Sound serves as anything other than a physical barrier between distinct communities located on either side.²²

In the alternative, UNC argues that removal of the WUND-TV allotment is justified because Columbia is inadequate in size to serve as the station's community. This argument is equally unavailing. UNC apparently thought Columbia was enough of a community when it asked the Commission to allocate Channel *2 there in 1964. What, other than UNC wanting to poach on the larger Tidewater/Hampton Roads market, and its strategy to do so using DBS carriage, has changed since then? While the number of people currently living in the town may be slightly smaller than the number living there in 1964, the change is not so great as to render Columbia a ghost town. UNC points out that there are 819 people living in Columbia at the present date,²³ a number not so drastically reduced from the thousand or so people living there in 1964 when the Commission made the allotment in the first place.²⁴ Columbia remains the county seat for Tyrell county and a living, vibrant community populated by families who still

²¹ See Congressional districting maps available at http://www.rnc.org/media/pdfs/nc_post_cd.pdf (last visited Dec 1, 2003). Chowan County, the home of Edenton, and other counties falling west of the Sound are grouped into the First Congressional District, while the counties east and south along the coastline belong to the Third Congressional District.

²² Going further, if the Commission were to find a large regional "community" encompassing Edenton, that community would look to the north—to the Tidewater area which is served by WHRO-TV, not to the south, across the expanse of Albemarle Bay. During a period in which North Carolina taxes remain significantly lower than Virginia taxes, and the cost of living is less, there is a substantial movement of Virginia citizens to live and retire in areas such as Edenton, which are just below the Virginia/North Carolina border. These people continue to shop in Virginia, and many continue to work in Virginia. In essence, the northeastern part of North Carolina above the Albemarle Sound is being annexed to the urban areas of the Tidewater market, rather than to the areas (including Columbia) south of the Albemarle Sound.

²³ See UNC Petition, *supra* note 1, at 6.

²⁴ See Federal Communications Commission, *Table of Assignments, Television Broadcast Stations (Columbia, North Carolina)*, 29 Fed. Reg. 4721 (Apr. 2, 1964).

treat themselves as residents of Columbia. A quick check to the local yellow pages reveals an active civic population. Columbia has its own local high school—*Columbia High School*, a county-run elementary school located within Columbia's borders, a public library on Columbia's Main Street, several bed-and-breakfast inns, a local chapter of Head Start, numerous state, county, and city government offices, three banks, two pharmacies (including one named *Columbia Pharmacy*), its own city post office ("Columbia Main Post Office"), six restaurants, and no less than nineteen churches.²⁵ In short, there is ample evidence to show that Columbia is just as active a town as it has ever been, and that the residents of Columbia think and behave as though they were members of a *Columbia* community.

C. UNC Should Not Be Allowed to Thwart The Commission's Long-Established Method of Allocating Stations

Section 307(b) of the Communications Act provides the statutory basis upon which the Commission makes its channel allotment decisions, stating in relevant part that "the Commission shall make such distribution of licenses, frequencies, hours of operation, and of power among the several states and communities as to provide a fair, efficient, and equitable distribution of radio service to each of the same."²⁶ In fulfilling this mandate, the Commission tries to ensure not only that as many communities receive television signals as possible, but that as many different communities as possible serve as homes for television stations. In fact, the Commission has noted that, given the saturation of television signals generally, the goal of ensuring widespread distribution of facilities and transmission services is the only goal left to be accomplished: "there are virtually no populated areas of the country where our higher allotment priorities, such as first

²⁵ See generally Yellow Pages listings for Columbia, NC, available at <http://yp.bellsouth.com/> (last visited Dec. 9, 2003).

²⁶ 47 U.S.C. § 307(b) (2000).

reception service, have not been attained – provision of first [transmission] service is the highest of our allotment priorities which remains in any significant degree unsatisfied”²⁷

Not only does the proposal therefore run counter to the Commission’s policy goals, but UNC’s motivations behind the change are predatory and unjustifiable on public policy grounds. By its own admittance, UNC’s attempt to abandon Columbia in favor of Edenton is motivated solely on the grounds that doing so will allow WUND-TV to capture a larger audience share in the Norfolk-Portsmouth-Newport News DMA by making use of DBS carriage for “local” stations pursuant to the Satellite Home Viewer’s Improvement Act of 2000 (SHVIA). UNC’s assertions about Columbia being insufficiently small in size, and there being a “community” comprised of the region surrounding the Albemarle Sound, are little more than a smokescreen for a grab for additional viewers (and attendant fundraising dollars) in the Norfolk Market. UNC speaks much of the alleged “gain” to viewers in the distant area, but the true gain it seeks is not to the public, but rather to itself.

UNC also argues that because it is a public educational institution, the policy against a station abandoning its home community in order to chase after a larger one does not apply. There is no basis for this contention. The Commission has not distinguished between commercial and noncommercial stations for the purposes of deciding whether a change to the community of license is justified or when determining whether the sole service in a community should be removed. Inexplicably, UNC cites to Paragraph 27 of the 1989 R&O for the notion that noncommercial stations are somehow exempt.²⁸ This citation fails to support UNC’s argument. Nowhere does the Commission state that there must be some fiscal benefit to be

²⁷ See 1990 MO&O, *supra* note 6, at ¶ 16.

²⁸ See UNC Petition, *supra* note 1, at 6.

gained by moving ²⁹ Moreover, there is undeniably a financial component here—UNC will seek to raise membership and underwriting dollars from the Norfolk market, at WHRO-TV's expense

UNC's proposal to shoehorn WUND-TV into the Norfolk market is an abuse of the process for changing community of license process. Amazingly, UNC argues that making such a blatant grab for additional viewers should be construed as a *positive* action that furthers the public interest. In so doing, UNC completely ignores the Commission's goal that as many diverse communities possess their own local television stations as is technologically feasible.

III. CONCLUSION

For the foregoing reasons, Hampton Roads respectfully requests that the Commission dismiss the petition filed by UNC for a change in the community of license of its television station WUND-TV, Channel *2 from Columbia, North Carolina to Edenton, North Carolina

**HAMPTON ROADS EDUCATIONAL
TELECOMMUNICATIONS
ASSOCIATION, INC.**

By: Todd D. Gray
Todd Gray
Margaret Miller

Its Attorneys

DOW, LOHNES & ALBERTSON, PLLC
1200 New Hampshire Ave., N.W.
Suite 800
Washington, DC 20036
(202) 776-2000

December 19, 2003

²⁹ See 1989 R&O, *supra* note 9 at ¶ 27

Thursday, April 2, 1964

FEDERAL REGISTER

4721

(9) *Wright Brothers National Memorial, North Carolina.* Wright Brothers National Memorial airstrip, located at Kill Devil Hills, North Carolina.

(39 Stat. 535; 18 U.S.C. 3)

STEWART L. UDALL,
Secretary of the Interior.

MARCH 27, 1964.

[F.R. Doc. 64-7207; Filed, Apr. 1, 1964; 8:47 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 15227; FCC 64-260]

PART 73—RADIO BROADCAST SERVICES

Table of Assignments, Television Broadcast Stations, Columbia, N.C.

In the matter of amendment of § 73.606, Table of Assignments, Television Broadcast Stations (Columbia, North Carolina), Docket No. 15227, RM-437.

1. The Commission has before it for its consideration its notice of proposed rule making, released December 3, 1963 (FCC 63-1087), proposing that Channel 2 be assigned to Columbia, North Carolina, and reserved as a noncommercial educational station in accordance with the request of the University of North Carolina, Consolidated Office (petitioner).

2. No comments or reply comments were received.

3. Columbia, North Carolina, with a population of 1,099, is located in Tyrell County. That county's population according to the 1960 U.S. Census is 4,520. At the present time Columbia has no television channel assigned to it. Petitioner's proposed Channel 2 would serve this community and the surrounding area as an important link in a proposed state-wide educational television network. It is expected that the channel will meet a real need as a source of educational programming for both schools and the general public. There are no engineering objections to the assignment.

4. In view of the above the Commission is of the opinion that it is in the public interest to adopt the proposal set forth in its notice.

5. Authority for the amendment adopted herein is contained in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended.

6. It is ordered, That effective May 4, 1964, the Table of Assignments contained in § 73.606 of the Commission's rules and

regulations is amended to read as follows in respect to the community named:

City	Channel No.
Columbia, N.C.	*2

(Sec. 4, 48 Stat. 1086, as amended; 47 U.S.C. 154. Interpret or apply secs. 803, 307, 48 Stat. 1082, 1083; 47 U.S.C. 303, 307)

Adopted: March 25, 1964.

Released: March 27, 1964.

FEDERAL COMMUNICATIONS COMMISSION.

[SEAL] BEN F. WAPLE, Secretary.

[F.R. Doc. 64-3104; Filed, Apr. 1, 1964; 8:45 a.m.]

[Docket No. 15144; FCC 64-261]

PART 73—RADIO BROADCAST SERVICES

Table of Assignments, Television Broadcast Stations, Waycross, Ga.

In the matter of amendment of § 73.606, Table of Assignments, Television Broadcast Stations (Sacramento, San Francisco-Oakland, Santa Barbara and Watsonville, Calif.; Waycross, Ga.; Keene and Littleton, N.H.; Atlantic City, N.J.; Athens and Chattanooga, Tenn.), Docket No. 15144, RM-372, RM-373, RM-397, RM-398, RM-404, RM-405, RM-432, RM-461

1. The Commission has before it for consideration its notice of proposed rule making, released August 2, 1963 (FCC 63-761), proposing, inter alia, that Channel 8+ be reserved as a noncommercial educational station in Waycross, Georgia, in accordance with the request of the Georgia State Board of Education, licensee of the Channel 8+ station, WXGA-TV.

2. A brief supporting comment was received from the National Educational Television and Radio Center.

3. Waycross, Georgia, with a population of 20,944, is located in Ware County. That county's population according to the 1960 U.S. Census is 34,219. At the present time Channels 8+ and 16 are assigned to Waycross. There is no authorization outstanding, nor are there applications pending, for the use of Channel 16.

4. The Georgia State Board of Education received a construction permit for Channel 8+ on April 9, 1959. On July 24, 1962, after some delay in construction, it was granted a license for WXGA-TV, on that channel, which it has operated to this date. It now requests that Channel 8+ be formally reserved for educational use.¹ Operating on a reserved

¹ In Docket No. 13418 the Commission denied a request by petitioner identical to the subject request due to uncertainty caused by petitioner's delay in commencing construction. In our Report and Order (FCC 60-610; Mimeo No. 88198) adopted May 26, 1960, released May 27, 1960, we expressly pointed out petitioner's right to request consideration of its proposal at a time after its station was constructed and put into operation.

² Commissioner Hyde absent.

channel would enable petitioner to apply for Federal funds.²

5. In view of the nature of WXGA-TV's operation and the fact that the grant of petitioner's request will enable it to apply at an early date for Federal aid from the Department of Health, Education, and Welfare, the Commission is of the opinion that it is in the public interest to adopt the proposal set forth in its Notice in respect to Channel 8+ in Waycross, Georgia.

6. Authority for the amendment adopted herein is contained in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended.

7. It is ordered (in accordance with the matters considered in RM-461). That, effective May 4, 1964, the Table of Assignments contained in § 73.606 of the Commission's rules and regulations is amended to read as follows in respect to the community named:

City	Channel No.
Waycross, Ga.	*8+, 18

(Sec. 4, 48 Stat. 1086, as amended; 47 U.S.C. 154. Interpret or apply secs. 803, 307, 48 Stat. 1082, 1083; 47 U.S.C. 303, 307)

Adopted: March 25, 1964.

Released: March 27, 1964.

FEDERAL COMMUNICATIONS COMMISSION.

[SEAL] BEN F. WAPLE, Secretary.

[F.R. Doc. 64-3185; Filed, Apr. 1, 1964; 8:45 a.m.]

[Docket No. 15224; FCC 64-244]

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Frequencies; Corpus Christi, Texas

In the matter of amendment of Parts 81 and 83 of the Commission's rules to make the frequency pair 2538 kc/s (coast)—2142 kc/s (ship) available for assignment in the vicinity of Corpus Christi, Texas, Docket No. 15224, RM-460.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 25th day of March 1964;

The Commission having under consideration the above-captioned matter;

It appearing, that in accordance with the requirements of section 4 (a) and (b) of the Administrative Procedure Act, notice of proposed rule making in this matter which made provision for the submission of written comments by interested parties was published in the Federal Register on December 10, 1963 (28 F.R. 13370), and the period for filing comments has now expired; and

¹ Aid from the Department of Health, Education, and Welfare cannot be applied for unless the application submitted is accompanied by an FCC Notice of Acceptance for Filing of an application for a construction permit for a station to operate on an educationally reserved channel (with some exceptions).

² Commissioner Hyde absent.

¹ Petitioner has stated that the proposed North Carolina educational network " . . . will be so engineered as to permit simultaneous broadcast on all of the proposed transmitters, split networks, introduction of programs at individual transmitters, addition of new production centers, interconnection with other educational networks which may be established in the future, and other forms of potential programming and engineering expansion for future needs"

CERTIFICATE OF SERVICE

I, Nadine Curtis, hereby certify that copies of the foregoing Opposition to Petition for RuleMaking have been served by Hand Delivery or by First Class United States Mail this 19th day of December, 2003, on the following

Marcus W. Trathen
Stephen Hartzell-Jordan
Brooks, Pierce, McLendon, Humphrey & Leonard, L.L.P.
1600 Wachovia Capitol Center
150 Fayetteville Street Mall
Raleigh, NC 27601

Barbara Kreisman, Chief*
Video Division, Media Bureau
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554


Nadine Curtis

* By Hand Delivery